

**REMARKS**

The Office Action of August 21, 2003, has been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, the Examiner objected to the specification, claims 1-15, 17, 18, 20 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Matich* (U.S. Patent No. 2,708,543) in view of *Crookham* (U.S. Patent No. 6,464,196); and claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Matich* in view of German Patent 3,719,969.

In maintaining the rejection of amended independent claims 1 and 11 over *Matich*, the Examiner takes the position that "Matich's fig. 1 clearly shows a step 2 having a toehold portion 26, a base portion 34 are perpendicular to each other which are equivalent to the applicant's toehold portion 134 and a base portion 132 in fig. 7."

Applicant respectfully contends that claims 1 and 11 do not recite that the *toehold portion* and base portion are perpendicular but rather, that "said upper generally planar support surface" of the toehold portion "is disposed substantially perpendicular to said base portion." This distinction is now clarified in the amended specification and drawings, and is further discussed below.

Independent claims 1 and 11 recite that each step comprises a toehold portion and a base portion, the toehold portion is defined by an upper generally planar support surface for engaging a portion of a user's foot, an opposing lower surface, and an edge surface extending therebetween. The claims also require that the upper generally planar support surface is disposed substantially perpendicular to the base portion.

With reference to Figure 1 of the present application, when the roof step system is being used, the user is kneeling and the ball of the user's foot is engaged with the upper planar surface of the toehold portion of the step. Hence, a planar surface rather than a curved surface is advisable in order to ensure stability in such a precarious situation by obtaining an increased area of engagement.

Moreover, the primary reference upon which the Examiner relies, *Matich*, is directed to a conventional roof ladder. Applicant agrees with the Examiner that the rung 26 in *Matich* is perpendicular with the base 32, 34 thereof. Applicant submits, however, that the intended user engaging portion of the rung 26 in *Matich* is the arcuate surface 50, 52, which does not define an equivalent to the claimed "upper generally planar support surface for engaging a portion of a user's foot" and which is disposed generally parallel to the base portion 32,34 of the rung 26 -- not perpendicular.

In view of the above amendments and remarks, Applicant respectfully submits that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application, the Examiner is kindly invited to call the undersigned counsel for applicant regarding the same.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: Wendi L. Weinstein  
Wendi L. Weinstein  
Registration No. 34,456

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

Date: Monday, December 22, 2003

PIPE  
DEC 22 2003  
MARK OFFICE 983C

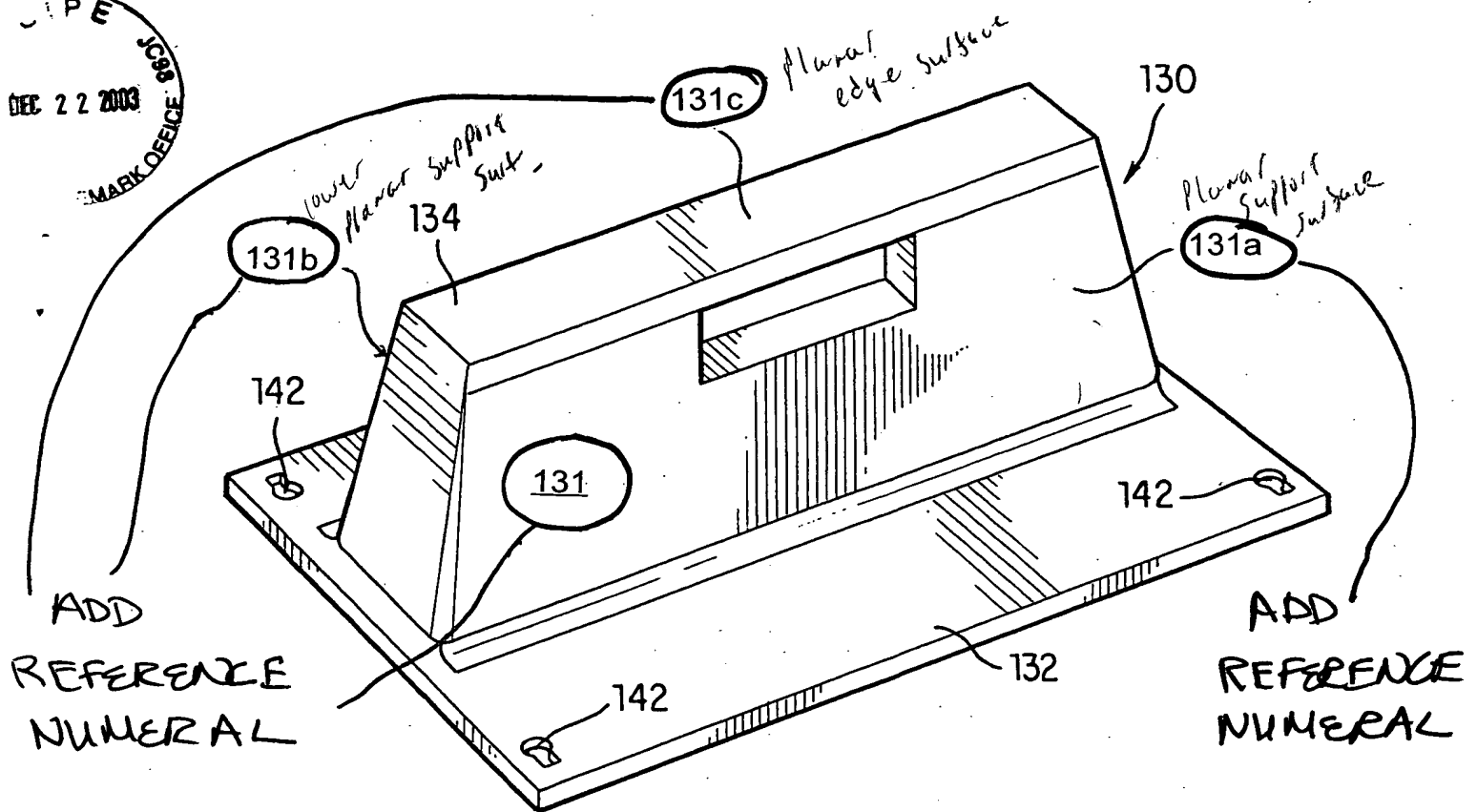


FIG. 7

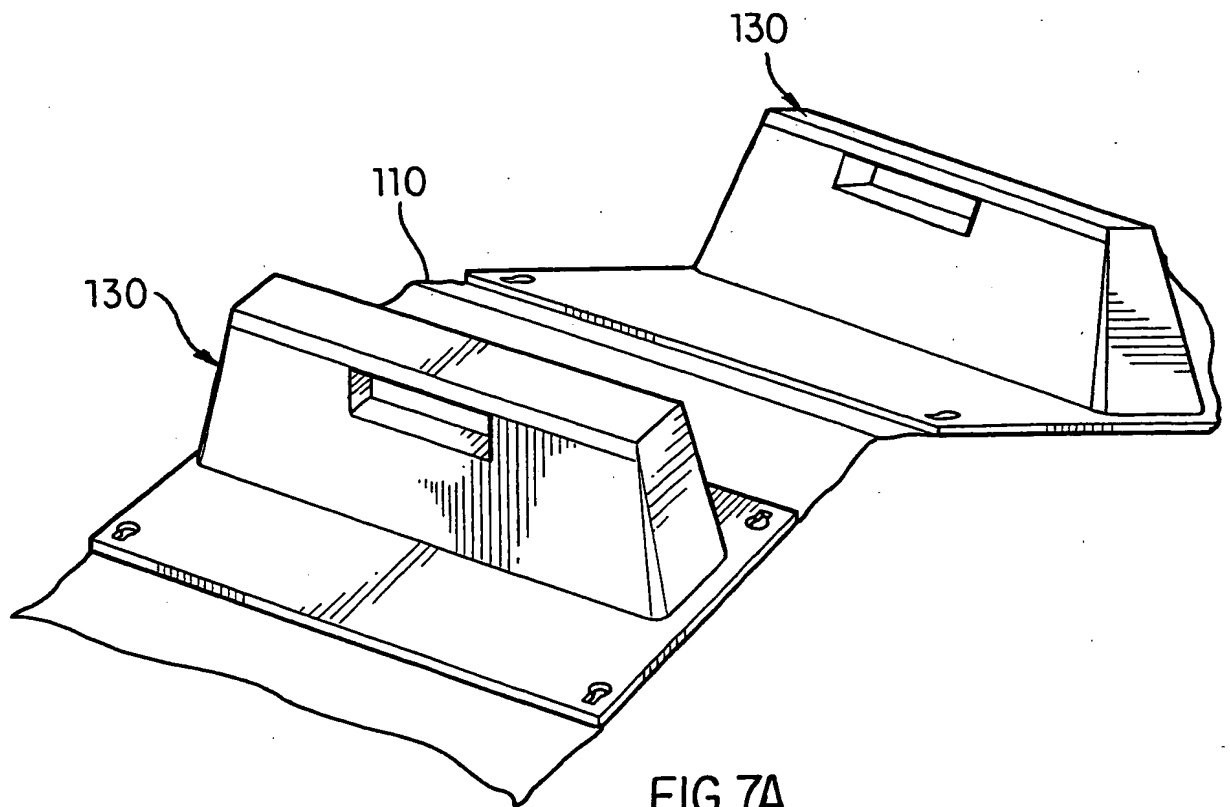


FIG. 7A